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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/634,947	08/07/2000	James Pei-Man She	016660-049	2827
21839	7590	03/09/2006	EXAMINER	
BUCHANAN INGERSOLL PC (INCLUDING BURNS, DOANE, SWECKER & MATHIS) POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			LIM, KRISNA	
		ART UNIT	PAPER NUMBER	
		2153		

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/634,947	SHE ET AL.	
	Examiner	Art Unit	
	Krisna Lim	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 December 2005.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9, 12-20, 22 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 7-9, 12, 13, 20, 22 and 25 is/are allowed.
- 6) Claim(s) 1 and 14 is/are rejected.
- 7) Claim(s) 2-6 and 15-19 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

1. Claims 1-9, 12-20, 22 and 25 are still pending for examination and claims 10-11, 21, 23, 24 and 26-28 were canceled.
2. The rejections are respectfully maintained and repeated herewith as in the last office action.
3. Claims 1 and 14 are still rejected under 35 U.S.C. § 103(a) as being unpatentable over Schreiber et al. [U.S. Patent No. 5,970,491].
4. Schreiber et al. disclosed (e.g., see Figs. 1-5) the invention substantially as claimed. Taking claims 1 and 14 as exemplary claims, the reference disclosed an apparatus (Fig. 1, cols. 4-6) for providing stream data (a message comprising of: attachments, documents, executable programs, voice, video, etc., col. 5 (lines 2-5)) from a server (a mail switch 100 having a distributed storage facility 104, a database 101, Message Transfer Agent 106) to multiple clients (110) comprising, a gateway (e.g., see gateway 108) located between said server and said clients, wherein said gateway including: a) means for obtaining streaming data from said server upon receipt of a first request for a stream from any of the clients (e.g., see arrows in and out of gateway, cols. 4-6); and means responsive to second and subsequent clients requesting said stream for effectively duplicating said stream within the gateway to provide said stream to the second and subsequent clients from the gateway (e.g., see Figs. 1-2 and 4-5).
5. While Schreiber further discloses that the mail switch 100 comprises a plurality of message transfer agents 106 and a distributed storage facility 104 and the gateway located between the server and the clients to facilitate the data transfer and data may be attachments, documents, executable programs, voice, video, etc. (e.g., see col. 5 (lines 2-5)). Schreiber did not explicitly mention that his data is a streaming data. However, a gateway is well known in the art at the time the invention was made as a device that connects networks using different communications protocols so that information can be

passed from one to the other. Also, the gateway transfers information and converts it to a form compatible with the protocols used by the receiving network (see Microsoft Press Computer Dictionary). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to recognize that using a gateway to transfer or to deliver streaming data instead of attachments, documents, executable programs, voice, video, etc. would have been a matter of choice or usage because a gateway is known for transferring and converting information to a form compatible with the protocols used by the receiving network.

6. Claims 2-6 and 15-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 7-9, 12-13, 20, 22 and 25 are allowed.

8. The applicant's arguments filed 12/29/04 have been fully considered but they are not deemed to be persuasive.

9. In the remarks, applicants argued in substance that:

- a) The Office Action does not provide any support for the contention of obviousness (see applicant's remark page 2, second paragraph).
- b) A prima facie case of obviousness has not been made (e.g., see applicant's remark page 2, last paragraph, to page 7, third paragraph).

10. In response to the paragraph 9 a) and 9 b) above, Examiner disagrees because the support for the contention of obviousness was clearly addressed in the Office Action. For example, in Fig. 1, Schreiber discloses a message system comprising: a) mail switch 100, b) a plurality of gateway 108 and c) a plurality of clients 110. Schreiber further discloses that the mail switch 100 comprises a plurality of message transfer agents 106 and a distributed storage facility 104. In addition, as stated in Microsoft Press Computer Dictionary, a gateway is well known in the art at the time of the invention was made as a device that connects networks using different communications protocols so the information can be passed from one to the other. Now, the question is what kind of the information that can be passed from one to the other in the network and whether or not Schreiber's gateway 108 being able to transfer streamed data and/or message. Thus, it would have been obvious to one of ordinary skill in the art to recognize that the information that are passed from one to the other in the network can be either streamed data or live data content or any kind of data content. As stated in *In re Rinehart*, 189 USPQ 143 (CCPA 1976), "A prima facie case of obvious is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art." This is what exactly the Examiner did in the Office Action that the prima facie case is established. **Now, the burden is shifted to the applicants to rebut why the gateway can not be used to transfer or to deliver streamed data or live data content. In fact, the applicants do not dispute the function of a gateway (e.g., remark page 6, third paragraph).**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) days from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krisna Lim whose telephone number is 571-272-3956. The examiner can normally be reached on Monday to Wednesday and Friday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess, can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KI

March 3, 2006



KRISNA LIM  
PRIMARY EXAMINER